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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 29.06.2021

CORAM:

THE HON'BLE MR. JUSTICE R.SURESH KUMAR

W.P.No.29582 of 2018 and
W.M.P.No.34547 of 2018

- 1.Vahitha
- 2.Preethi
- 3.Sathyabama
- 4.Anjala@ Elan Marry
- 5.Devi Sri.R
- 6.Shanthi
- 7.Leema Roselin

... Petitioners

Vs.

1. The State of Tamil Nadu,
Rep. by the Secretary,
Revenue Department,
Fort St. George, Chennai - 600 009.
2. The Land Special Commissioner-cum-
Administrative Commissioner,
Revenue Department,
Ezhilagam, Chepauk,
Chennai - 600 005.
3. The District Collector,
Office of the District Collector,
Udhagamandalam,
Nilgiris District.
4. The Revenue Divisional Officer,
Office the Revenue Divisional Office
Udhagamandalam,
Nilgiris District.
5. The Tahsildar,
Office of the Tahsildar,
Udhagamandalam,
Nilgiris District.



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6. The Revenue Inspector,
Office of the Revenue Inspector Office,
Udhagamandalam Town,
Udhagamandalam, Nilgiris District.

7. The Village Administrative Officer,
Office of the Village Administrative Office,
Udhagamandalam (West),
Nilgiris District.

8. The Commissioner,
Udhagamandalam Municipality,
Udhagamandalam, Nilgiris District.

... Respondents

Prayer: Petition filed under Article 226 of Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records of the order of the 5th respondent dated 13.8.2018 in Na.Ka.A1/1829/2018, quash the same and consequentially directing the respondents 1 to 8 to grant Patta in favour of the petitioners in Survey No.3636/1A,3633, re-survey No.F/12/25, F/12/34, F/13-35 Udhagamandalam Town, Nilgiris District.

For Petitioners : Mr.C.Venkatesan

For Respondents 1 to 6 : Mr.Richardson Wilson
Government Counsel

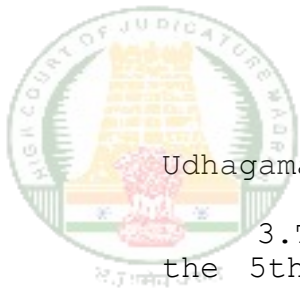
For 7th Respondent : No appearance

For 8th Respondent : Mr.P.Srinivas

ORDER

The prayer sought for herein is for a writ of certiorarified mandamus calling for the records of the order of the 5th respondent dated 13.8.2018 in Na.Ka.A1/1829/2018, quash the same and consequentially direct the respondents 1 to 8 to grant Patta in favour of the petitioners in Survey No. 3636/1A,3633, re-survey No.F/12/25, F/12/34, F/13-35 Udhagamandalam Town, Nilgiris District.

2.The petitioners claimed to be the landless poor, therefore, under the category of landless poor, they seems to have given a request or representation to the Revenue Authorities i.e., the 5th respondent Tahsildar during the Jamabandi held on 06.06.2018 seeking for free house site patta in favour of the petitioners at Survey Nos.F/12-34, F/13-14 at



Udhagamandalam Town, Nilgiris District.

3.The said request, having been considered, was rejected by the 5th respondent by order dated 13.08.2018, challenging the same, the present writ petition has been filed with the aforesaid prayer.

4.Mr.C.Venkatesan, learned counsel appearing for the petitioners would submit that, in respect of some of the landless poor people, that kind of free patta has been issued and there had been some instances, in this regard, which can be pointed out by the petitioners, therefore the present stand taken by the 5th respondent in rejecting the plea of the petitioners by giving the reason that the land, which is sought to be given to landless poor, belongs to the Municipality or there is no Government order allowing the Revenue Authorities in Nilgiris District to give free patta to landless poor, since, according to the petitioners, are not tenable, the petitioners seek indulgence of this Court to quash the impugned order and to give a consequential direction to the respondents, especially, the 5th respondent to consider the request of the petitioners for grant of free patta to the petitioners.

5.Heard Mr.Richardson Wilson, learned counsel for the Government appearing for respondents 1 to 6, who, on instruction as well as by relying upon the averments made in the counter affidavit filed on their behalf, would submit that, the petitioners are well off and on enquiry, it is revealed that, they have the properties in and around Udhagamandalam Town, therefore, they cannot be treated as landless poor category.

6.Be that as it may, the learned counsel for the Government would further submit that, insofar as the petitioners present claim in respect of the property in particular survey numbers are concerned, the property belongs to the 8th respondent Municipality, therefore, the question of giving any patta for the landless poor category in respect of the said land, as claimed by the petitioners, does not arise. Therefore, this has been specifically stated in the impugned order, hence the said order is to be sustained. However, the learned counsel for Government would further submit that, if at all still the petitioners feel that, they are landless poor, by establishing the said factor, they can make a fresh representation to the Revenue Authorities in the District concerned and if any such request is made, the same would be considered on merits as to whether the petitioners are landless poor and they are entitled to get any free patta from the Government and accordingly, if such kind of petition is filed in future, that would be considered by the Revenue Authorities on merits.



7.I have heard Mr.P.Srinivas, learned standing counsel appearing for the 8th respondent Municipality, who, on instruction, would submit that, the land in question, which is mentioned in the impugned order, belongs to the 8th respondent Municipality, therefore, not a bit of such land can be parted away for any other purpose, that too for the purpose of free house site patta for the use of landless poor category, as the said land in question is required for the utility of the 8th respondent Municipality.

8.I have considered the said rival submissions made by the learned counsel appearing for the parties and have perused the materials placed before this Court.

9.As has been rightly pointed out by the learned Government Counsel appearing for respondents 1 to 6, first of all, it is to be established by the petitioners that, they are landless poor and they are entitled to get free patta for dwelling house purpose. In this context, the following averment has been made by the respondents in the counter affidavit.

"3.I submit that the averments made by the petitioners in Para Nos.3 to 5 of the affidavit, that the petitioners are very poor and downtrodden people and also belong to scheduled caste, schedule tribe and Muslims Labi and that they do not have any piece of land in their names and that they have been residing in the petition mentioned property for more than 5 years are all absolutely false and untrue to the knowledge of the petitioners. I submit that most of the petitioners are well off and they are having properties in and around Ootacamund Town. However the petitioners are put to strict proof of the entire set of allegations in para 3 to 5 of the petition."

10.By relying upon the same, it has been pointed out by the learned Government Counsel that, these petitioners are well off and they are having properties in and around Udthagamandalam Town. When that being the factual position, this Court feels that, prima facie the petitioners may not be entitled to get any free patta.

11.Be that as it may, now the claim of the petitioners is that, they have given a representation on 06.06.2018 to the 5th respondent for grant of free patta in a particular land i.e., the survey numbers referred to in the impugned order. However, the said survey numbers i.e., the land in the said survey numbers admittedly belongs to the 8th respondent Municipality and therefore, parting of the said land to any other purpose, as



claimed by the 8th respondent Municipality through the learned standing counsel, does not arise.

12. Therefore, in that view of the matter, what is the reason stated in the impugned order by the 5th respondent is justifiable and acceptable, therefore, this Court finds no flaw in the said order which is impugned herein and no plausible reason is available for this Court to interfere with the same.

13. However, in view of the said stand taken by the Government through the learned Government Counsel, if at all the petitioners are able to prove their case that, they are landless poor and are entitled to get free house site patta under various schemes being envisaged by the Government of Tamil Nadu, it is for them to prove the same by making fresh representation to the Revenue Authorities of the District concerned and if any such representation is made by the petitioners, it is open to the Revenue Authorities to decide the same on merits and in accordance with law.

14. With the above observation, this Writ Petition is dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

Sgl

To

1. The Secretary,
The State of Tamil Nadu,
Revenue Department,
Fort St. George, Chennai - 600 009.
2. The Land Special Commissioner-cum-
Administrative Commissioner,
Revenue Department,
Ezhilagam, Chepauk, Chennai - 600 005.
3. The District Collector,
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Office of the Village Administrative Office,
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8. The Commissioner,
Udhagamandalam Municipality,
Udhagamandalam, Nilgiris District.

+2ccs to Mr.C.Venkatesan, Advocate, S.R.No.30482

+1cc to Mr.P.Srinivas, Advocate, S.R.No.30429

+1cc to the Government Pleader, S.R.No.30390

W.P.No.29582 of 2018

RLD(CO)
RLP(23/07/2021)